

Feds win first round in carbon price battle; Saskatchewan vows to continue fight after court rules Ottawa can impose plan across country

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Body

The federal government has the power to impose a minimum carbon price across the country, Saskatchewan's top court ruled Friday.

In a 3-2 majority ruling that described climate change as "one of the great existential issues of our time," the Saskatchewan Court of Appeal sided with the federal government in determining that the Greenhouse Gas Pollution Pricing Act does not violate the Constitution.

Federal Environment Minister Catherine McKenna was quick to hail the ruling as a victory for the Liberal government, which is defending its nationwide carbon price plan against attacks from a coalition of right-leaning premiers and the federal Conservatives.

It was the first decision in a series of legal challenges seeking to strike down the law that created the federal pricing scheme for carbon.

"This decision is a win for Canadians and for future generations," McKenna said Friday outside the House of Commons. She pointed to the ongoing floods in Quebec, New Brunswick and Ontario and widespread rallies calling for stronger action to fight climate change, and urged Conservative politicians to stop opposing the Liberal government's efforts to reduce emissions.

"Stop the partisan games," McKenna said. "Stop fighting climate action in the courts and start fighting climate change with us."

Speaking in Regina, Saskatchewan Premier Scott Moe shot back at McKenna, saying his province takes climate change seriously and will reduce emissions without the "Trudeau carbon tax."

Moe said the ruling, which included a dissenting argument that the carbon price law is "wholly unconstitutional," leaves "strong grounds" for an appeal and that Saskatchewan will support Ontario, New Brunswick and Alberta in their own legal challenges against the policy.

He likened Friday's court decision to Game 1 of a playoff series, and said carbon price opponents will ultimately win in Game 7 at the Supreme Court of Canada.

"Today's ruling is just one step in the battle," Moe said.

"The fact remains that the Trudeau carbon tax is bad environmental policy, it is bad economic policy and our fight against it will continue."

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Saskatchewan challenged the law at the Court of Appeal in February, arguing Ottawa overstepped its authority by claiming power to decide which provinces would be subject to the minimum federal price on carbon. The province also argued the executive branch of government - which decides where to implement the carbon price, according to the legislation - doesn't have the power to impose taxes under the Constitution, because that would violate the principle of no taxation without representation.

The majority of judges in the Saskatchewan case disagreed on both counts, ruling that "the levies imposed by the Act are regulatory charges, not taxes." And even if they were, Canada's Parliament "clearly and expressly" approved the carbon price plan, so the constitutional argument doesn't fly anyway, the court ruled.

The court also found the federal government has the authority to impose minimum standards to reduce greenhouse gas emissions as a national concern under the "peace, order and good government" provision of the Constitution.

Ontario is also challenging the carbon price law in court. On April 15, the first of four days of hearings at Osgoode Hall in downtown Toronto, lawyers from Ontario's justice ministry made the case that the law is a "massive expansion" of federal power that violates the constitution.

In Muskoka on Friday to survey flood damage and relief efforts, Premier Doug Ford picked up Moe's Stanley Cup playoffs comparison.

"It was a close one, 3-2, but the series isn't over yet. That's Game 1. We still have other games to play," Ford told reporters shortly after a telephone call with his Saskatchewan counterpart.

"And the last resort, if we can't beat 'em in the courts we're going to beat 'em at the ballot box in October, because every single province that has run on the anti-carbon tax has won," he added in a reference to this fall's federal election.

Enacted last June, the pollution pricing plan says all provinces and territories need their own carbon price - through an emissions tax or cap-and-trade system - that meets the federal minimum of \$20 per tonne of emissions in 2019, increasing to \$50 per tonne in 2022. The law outlines a federal "backstop" carbon price that includes a levy on fuel and pricing system for heavy polluters that is imposed in provinces that refuse to meet Ottawa's minimum standard.

So far, that includes Ontario, Saskatchewan, Manitoba and New Brunswick, but Alberta's new premier, Jason Kenney, has vowed to scrap the carbon price set up by his province's former NDP government and replace it with what he calls a "levy" on emissions that will only apply to industrial emitters.

McKenna has said Ottawa will impose its backstop in Alberta if the new pricing system doesn't meet the federal standard.

The backstop also ensures all revenue from the tax on fuel is returned to the provinces where it's raised. Ninety per cent of it goes to individuals and households through tax rebates, and the Parliamentary Budget Officer has confirmed the government's claim that most people will actually get back more than they pay in increased costs from the levy on fuel. In Ontario, for example, the average household will get back \$300 this year, while the levy is expected to cost such a household \$244.

In 2022, when the levy hits \$50 per tonne, the average Ontario household will get back \$697, while its costs are projected to go up to \$564, according to government projections.

The federal environment department says Canada's carbon price plan will slash emissions by 50 to 60 megatonnes in 2022. According to the latest tally of national emissions submitted to the UN, as of 2017, Canada is about 205 megatonnes short of its target under the international Paris Agreement, which is to cut emissions to 30 per cent below their 2005 level by 2030.

With files from Rob Ferguson

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